

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA



CHARLES L. NAIL, JR.
BANKRUPTCY JUDGE

FEDERAL BUILDING AND UNITED STATES POST OFFICE
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January 21, 2011

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Trustee Dale A. Wein
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Cash Depot, Inc.
Leah Leisinger
3904 West 41st Street
Sioux Falls, South Dakota 57106

Subject: *In re David Alex France and Kristi Lynn France*
Chapter 13, Bankr. No. 07-40584

Dear Mr. Blake, Trustee Wein, and Ms. Leisinger:

The matter before the Court is Debtors' Notice of Filing of Certification and Request for Discharge and Setting Deadline for Response. This is a core proceeding under 28 U.S.C. § 157(b)(2). As set forth below, Cash Depot, Inc.'s objection to the notice will be overruled and Debtors' general discharge order may be entered.¹

Summary of material facts. David Alex France and Kristi Lynn France ("Debtors") filed for relief under chapter 13 of the bankruptcy code. Pursuant to provisions of that chapter, they proposed a plan to repay their debts to the extent mandated by the code as well as permitted by their particular financial circumstances. All creditors, including Cash Depot, Inc., received a notice of the commencement of the case and a copy of the plan and were given a deadline to file any objections to the plan. Trustee Dale A. Wein was the only party in interest to file an objection to the plan. His objection was resolved at a hearing held December 20, 2007. Debtors filed a Plan as Confirmed as required by the Court.

The Plan as Confirmed required Debtors to pay Trustee Wein \$200.00 per month over a three-year period beginning in November 2007 and required Trustee Wein to use those funds to pay administrative expenses and timely-filed claims. Numerous claims were timely filed.

Shortly after the three-year plan payment term expired, Trustee Wein filed a

¹ The material facts are not in dispute. The issue presented is purely a question of law. Thus, no hearing was held.

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notice Debtors had completed their plan payments. As required by Bankr. D.S.D. R. 3072-1B, Debtors filed a Certification and Request for Discharge. Cash Depot, Inc. timely filed an objection. It stated its full claim had not yet been paid. The matter was taken under advisement.

Discussion. The bankruptcy code does not require a debtor in a chapter 13 case to repay all his debts in full. Instead, the code requires certain types of debts, such as child support obligations and administrative expenses, to be paid in full while general unsecured claims need to be paid to the fullest extent possible, after considering the particular debtor's income and reasonable expenses. 11 U.S.C. §§ 507, 1322(a), and 1325. Once a debtor has made those required plan payments, he may receive a discharge of the unpaid balance of the general unsecured claims against him. 11 U.S.C. § 1328(a).

In this case, Debtors' income and reasonable expenses allowed them to pay only a portion of the general unsecured claims against them. They have completed all the payments required by the three-year term of their plan and the bankruptcy code. Trustee Wein has certified there are no additional funds to pay claims. Accordingly, Cash Depot, Inc.'s objection is overruled and Debtors may receive their discharge of debts. The standard discharge order will be entered.

Sincerely,



Charles L. Nail, Jr.
Bankruptcy Judge

CLN:sh

cc: case file (docket original; serve parties in interest)

On the above date, a copy of this document was mailed or faxed to the parties shown on the attached service list.

Frederick M. Entwistle
Clerk, U.S. Bankruptcy Court
District of South Dakota

NOTICE OF ENTRY
Under Fed.R.Bankr.P. 9022(a)

This order/judgment was entered
on the date shown above.

Frederick M. Entwistle
Clerk, U.S. Bankruptcy Court
District of South Dakota